

REMARKS/ARGUMENTS

Applicants have reviewed and considered the non-final Office Action mailed on October 28, 2008 ("Office Action"), and the references cited therewith.

Claims 1-20 have previously been cancelled and claims 32-40 have been previously withdrawn. Claims 21-25 and 29 are currently amended and no claims are added. As a result, claims 21-31 are now pending and currently under consideration in this application.

Applicants respectfully submit that the amendments to claims 21-25 and 29 do not introduce any new subject matter and are intended only to clarify the subject matter claimed prior to the amendments.

I. CLAIM OBJECTIONS

The Examiner objects to claim 24 based on the informality that the term "to" should be inserted after the term "configured." Applicants gratefully acknowledge Examiner for bringing this informality to Applicants' attention. Applicants have amended claim 24 to include the term "to" after the term "configured."

II. CLAIM REJECTIONS §112

Claims 29 and 30 stand rejected under 35 U.S.C. §112, second paragraph. The Examiner asserts that the claims are indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner asserts that the term "type" renders the claim indefinite "because it is unclear as to what defines an end mill 'type' cutting tool." Applicants respectfully traverse the rejection. However, in the interest of advancing prosecution of the application and receiving a timely Notice of Allowance, Applicants have amended claim 29 to remove the term "type."

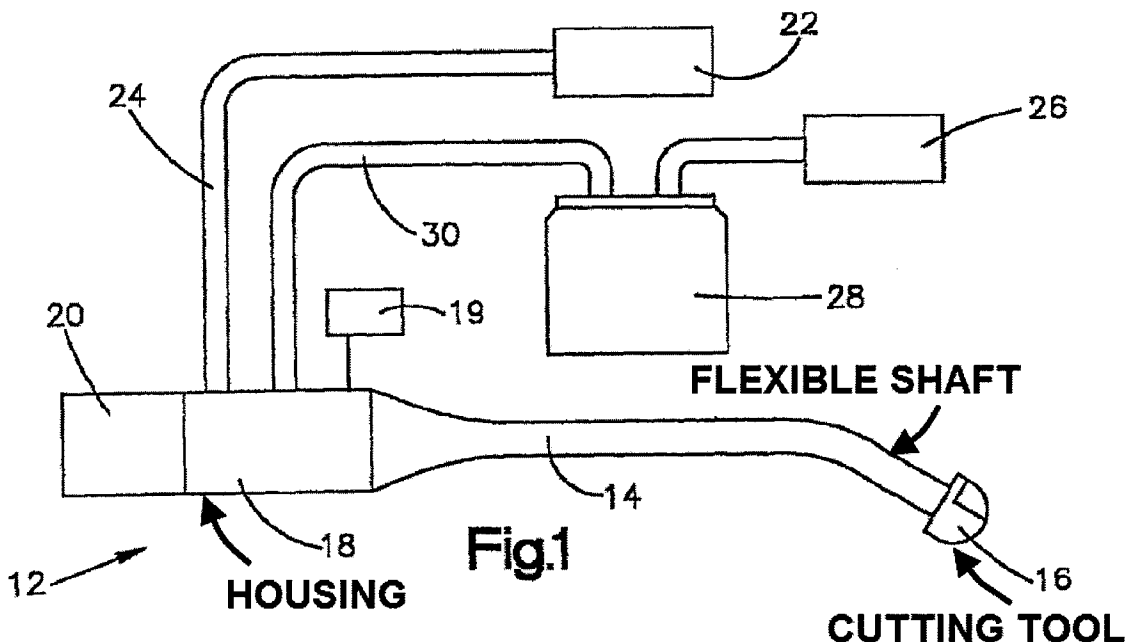
III. CLAIM REJECTIONS §102(e)

Claims 21-23 and 25-30 stand rejected under 35 U.S.C. §102(e) as being anticipated by Bonutti (U.S. Patent No. 7,134,437). Applicants respectfully traverse the rejection. In support of the rejection of claim 21, the Examiner states:

Bonutti teaches a tissue harvester assembly including: a housing **18** with a port; a rotatable shaft **14**; a tissue cutting tool **16** mounted on the shaft, wherein the cutting tool is received within an opening in the housing; and an electric motor **20** coupled to a power source and the rotatable shaft, wherein the cutting tool is configured to rotate within the opening (col. 5, lines 37-48); a tissue particle collector **28**; a nanograft cell **172**; and a particle retriever (cannula/curette assembly) (col. 9, lines 46-52) wherein the retriever is capable of being received by the port and injecting tissue into the nanograft cell.

Office Action, pp. 3-4.

Applicants initially note that, contrary to Examiner's assertion, Bonutti does not disclose a cutting tool received within an opening in the housing. As shown below in the annotated Figure 1 of Bonutti, the housing **18** and cutting tool **16** are separated by a flexible shaft **14**.



As shown above, the Bonutti device does not disclose a cutting tool received within an opening in the housing. Bonutti explicitly states that "flexible drill **12** has a flexible shaft **14** and a cutting tip **16** at the distal end of the shaft **14**." Col. 5, lines 40-41 (emphasis added). Bonutti further provides that "[w]ith the present invention all work is

done by going percutaneously through the skin to a specific tissue area to minimize the damage to skin, muscle and bone.” Col. 3, lines 57-59. In light of the fact that the cutting tool of Bonutti operates percutaneously, it is not feasible for the cutting tool to be received within the housing. For at least these reasons, Bonutti does not disclose the invention claimed in claim 21.

The above-cited language further emphasizes that the Bonutti device is not a “dermal tissue nanografting system” as claimed in claim 21. Instead, “all work” performed with the Bonutti device is performed “percutaneously”, *i.e.* through the surface of the dermal tissue. *Id.* The Bonutti reference further discloses “[t]he invention is not limited to removal of bone tissue and may be used for removal of cartilage, muscle, fetal tissue, etc.” Col. 2, lines 29-31. Nowhere does the reference disclose that the Bonutti device can be used for nanografting dermal tissue. Claim 21, as well as dependent claims 22-24, has been amended to clarify that the claimed system is configured to harvest dermal tissue. For at least this reason, Bonutti does not disclose the invention claimed in claim 21.

Furthermore, Bonutti does not disclose a housing with a port, as required by claim 21. Noticeably, the Office Action does not provide a reference number for the port allegedly disclosed by Bonutti. A review of the reference also reveals that Bonutti does not disclose a port. For at least this reason, Bonutti does not disclose the invention claimed in claim 21.

For at least the reasons provided above, Applicants believe that Bonutti does not anticipate the invention claimed in claim 21 or depending claims 22-31. Applicants respectfully request withdrawal of the rejection and a timely allowance of the claims.

Conclusion

If a Petition for Extension of Time under 37 C.F.R. 1.136(a) or an additional Petition for Extension of Time under 37 C.F.R. 1.136(a) is required, the petition is herewith made and the Commissioner is authorized to charge the required fee to deposit account number 500326.

The Commissioner is authorized to charge any fees that may be required, or credit any overpayment made with this Office Action, to Deposit Account Number 500326.

In light of all the foregoing, believing that all things raised in Examiner's October 28, 2008 Office Action have been addressed, Applicant respectfully requests reconsideration of the prior rejections, as well as allowance of the claims and passage of the application to issue. If the Examiner would care to discuss any remaining matters by phone, Applicant invites the Examiner to contact the undersigned at 512-536-3072.

Respectfully submitted,



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